

CHAPTER NO. 943

SENATE BILL NO. 2741

By Person

Substituted for: House Bill No. 2736

By Scroggs

AN ACT To amend Tennessee Code Annotated, Title 16, Chapter 15 and Title 17, Chapter 2, relative to substitute or special judges in general sessions and juvenile court.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 16-15-209, is amended by adding the following subdivisions:

(e)(1) Upon approval of this act by resolution adopted by a two-thirds (2/3) vote of the county legislative body of any county having a population in excess of eight hundred thousand (800,000) according to the 1990 federal census, or any subsequent federal census, and notwithstanding any other subdivision of this section to the contrary, if a judge of a court of general sessions or juvenile court in said county finds it necessary to be absent from holding court, another judge may sit by interchange for the absent judge upon entering an order finding it in the best interest of judicial efficiency. The order shall identify the absent judge and the interchanging judge, and shall be kept on file in the office of the clerk of the court. Upon a finding that interchange is not in the best interest of judicial efficiency, the judge so finding may appoint an attorney as a special judge. Such appointments shall be on a rotating basis, from a list of attorneys previously approved by all of the duly elected or appointed general sessions or juvenile court judges, as being constitutionally qualified, in good standing, and possessing sufficient experience and skill. The appointment of a special judge shall be by written order, identifying the absent judge and the special judge, and shall be kept on file in the office of the clerk of the court.

(2) During the month of September each year, the clerk of the court shall prepare, for each division of court governed by this subdivision, an annual report for the preceding twelve months, setting out the total number of sessions of court presided over by a special judge, or by a judge sitting by interchange. The clerk shall also report the total number of sessions of court that are scheduled in each division of court for that period. The orders and reports required by this subdivision shall be filed, and kept open for public inspection, by the clerk of the court. The clerk of the court shall promptly file a copy of such annual report with the administrative office of the courts, created by § 16-3-801.

(f) All special judges appointed under subdivision (e) shall be subject to the following limitations:

(1) All parties and counsel appearing before the special judge shall be notified that the duly elected or appointed judge is absent, and that a practicing attorney is serving as special judge.

(2) If there is no duly elected or appointed judge available to preside over the trial of a contested case, either side shall be entitled to continue the case pending the return of a duly elected or appointed judge.

(3) A special judge shall not preside over a contested cause without a consent form signed by all litigants who are present at the beginning of the proceeding. The consent form shall be kept on file with the clerk of the court as part of the legal record of that cause.

(4) A special judge shall not approve the payment of attorney fees, involving an indigent defense claim or any discretionary fees, provided, however, a special judge may enter a judgment for attorney fees when:

(A) the exact amount is set by statute; or

(B) the party to be charged has executed a written agreement calling for the payment of attorney fees, and such fees shall be the amount specified in the agreement, but in no case more than one-third (1/3) of the principal amount of the debt upon which the suit is brought.

(g) The provisions of subsections (e) and (f) shall not apply where a judge finds it necessary to be absent from holding court, and appoints as a special judge:

(1) A duly elected or appointed judge of any other juvenile or general sessions court, a trial court judge; or

(2) A full-time officer of the judicial system under the judge's supervision whose duty it is to perform judicial functions, such as a juvenile referee, a child support referee or clerk and master, who is a licensed attorney in good standing with the Tennessee Supreme Court. Such judicial officer shall only serve as special judge in matters related to that officer's duties as a judicial officer.

Notwithstanding the provisions of subsections (e) and (f), a general sessions or juvenile court judge shall have the authority to appoint a special judge as provided in this subsection.

(h) Notwithstanding any other provision of law to the contrary, in any county having a population of more than eight hundred thousand (800,000) according to the 1990 federal census or any subsequent federal census, the county governing body of such county may appoint special substitute judge(s) to serve as a judge in the court of General Sessions or Juvenile Court in such county in the absence of any one (1) of such elected judge(s).


A special substitute judge appointed shall be an attorney licensed to practice law by the State of Tennessee and in good standing with the board of professional responsibility.

The compensation for a special substitute judge pursuant to this act shall be fixed by the county governing body and shall be paid from any fund appropriated for such purpose by the county governing body.


SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: April 29, 1998


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 11th day of May 1998


DON SUNDQUIST, GOVERNOR